

LAW LIBRARY OF CONGRESS
RIGHTS OF PEOPLE WITH DISABILITIES

ARGENTINA

SUMMARY

The 1994 Constitution included a specific provision on the protection of persons with disabilities, requiring that the Congress legislate and promote affirmative action procedures so that the provision and the provisions of applicable international treaties on the rights of the disabled could be implemented. Similar provisions are incorporated in the provincial constitutions as well. Under the General Law for the Protection of the Disabled of 1981, any person whose family, social, educational, and labor integration is affected by a permanent or prolonged functional disturbance, either physical or mental, considering his/her age and social status, is considered disabled. A number of laws and decrees have been adopted to implement policy, including the Law No. 24657 of June 5, 1996, which creates the *Consejo Federal de Discapacidad*, a council designed to integrate efforts on behalf of disabled persons and provide national policy leadership. Laws and Decrees from 1981, 1983, 1994, and 1997, taken together, create a comprehensive system for the protection of the disabled.

Scope of Coverage.

Provisions on the disabled cover the following areas:

- Medical benefits
- Educational benefits
- Social security benefits
- Tax exception and incentives
- Employment priorities (government agencies required to have persons with disabilities as 4 percent of the workforce, of which 1 percent must be blind; private employers given tax incentives to hire the disabled)
- Protected workshops to provide rehabilitation, labor training, and integration into the work force
- Priority use of public premises for small businesses
- Extra allowance for family with a handicapped child (and in some cases paid maternity leave)
- Public transportation and public buildings must have facilities for the disabled, including wide pedestrian paths, stairs and ramps, reserved parking spaces, reserved seats on vehicles etc.
- Exemption from various taxes on the acquisition or import of motor vehicles with special equipment for persons with disabilities
- Public telephones must be provided with equipment for the deaf, mute, and deaf-mute, and telephone companies must provide special telephone services for home use

Legislative Objective.

The legislative intent under the Constitutional provision is to give the disabled the same opportunities that a non-disabled person has, so that they will be productive members of the society. Congress is directed under the Constitution to legislate and promote affirmative action procedures to ensure equal opportunity and treatment and the full enjoyment and exercise of human rights by the disabled.

Public Policy Implementation.

The Ministry of Public Welfare is the enforcement authority of the General Law. It provides information on problems and conflicts created by disabilities. It renders financial and technical support to the provinces and non-profit private institutions devoted in any way to disabled people. Decree 1027 of 1994 directs the Ministries of Labor, Social Action, and Culture and Education and other government organs to carry out the policies set up for disabled and incapacitated individuals. The *Comision Nacional Asesora para la Integracion de Personas Discapacitadas*, under the jurisdiction of the Executive, was established to conduct studies for the development of the national plan of aid and support for the disabled and is the regulatory agency for the *Sistema Unico de Prestaciones Basicas para Personas con Discapacidad* which provides prevention and rehabilitation treatment, educational and therapeutic programs, and special transportation devices for the disabled. The *Comision Nacional de Telecomunicaciones* is the enforcement authority for provisions on the disabled related to telecommunications.

Enforcement and Remedies.

Violations to the Constitutional mandate against discrimination of any kind, including discrimination based on physical traits, are penalized under Law No. 23592, of 1988, which provides for payment of damages. In addition, any crime perpetrated with a discriminatory motive will be punished with a sanction increased by a minimum of one-third and a maximum one-half of the amount applicable.

Member of organizations that promote discrimination of any kind and individuals who encourage persecution or hatred may be punished with imprisonment of one month to three years.

Affirmative Defenses.

No information.